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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 JOHN DOE #1 AND JOHN DOE #2,
18 Plaintiffs,
19 v.
20 TWITTER, INC.,
21 Defendants.

Case No. 3:21-cv-00485-JCS

**DEFENDANT TWITTER, INC.'S ANSWER TO
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Judge: Honorable Joseph C. Spero

Defendant Twitter, Inc. (“Twitter”) hereby answers Plaintiffs John Doe #1 and John Doe #2’s (“Plaintiffs”) First Amended Complaint (Dkt. 39, the “FAC”). Except as otherwise expressly admitted herein, Twitter denies each allegation in the FAC, including any heading meant to be construed as an allegation. Twitter repeats those headings here for organizational purposes only. Each response in this Answer is made subject to the following limitations. First, the responses do not constitute an acknowledgement or admission of the validity or relevance of any allegation. Second, where Twitter states that it lacks knowledge or information sufficient to form a belief about the truth of an allegation, Twitter reserves the right to argue that the allegation is true or false based on the evidence.

ANSWER TO ALLEGATIONS

The introductory paragraph on pages 2 and 3 of the FAC, contains introductory statements to which no response is required. To the extent any response is required, Twitter admits that the identified causes of action were originally asserted in the FAC, but that all causes of action except Count II (18 U.S.C. §§ 1591(a)(2) and 1595) were dismissed with prejudice by the Court in its August 19, 2021 Order (Dkt. 69). Twitter denies the remaining allegations set forth in this paragraph.

INTRODUCTION

1. In response to paragraph 1, the allegations in this paragraph consist of Plaintiffs’ characterization of their claims, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

2. In response to paragraph 2, the allegations in this paragraph consist of Plaintiffs’ characterization of their claims, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

3. In response to paragraph 3, the allegations in this paragraph consist of Plaintiffs’ characterization of their claims, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

4. In response to paragraph 4, Twitter admits that, as of July 27, 2021, it has 206 million average monetizable daily active users. The remaining allegations in this paragraph consist

1 of Plaintiffs' characterization of their claims, which do not require a response; to the extent a
2 response is required, Twitter denies the allegations therein.

3 5. In response to paragraph 5, Twitter denies the allegations in this paragraph.

4 6. In response to paragraph 6, Twitter lacks knowledge or information sufficient to
5 form a belief as to the allegation in the first sentence of this paragraph and on that basis Twitter can
6 neither confirm nor deny. The remaining allegations in this paragraph consist of Plaintiffs' legal
7 conclusions and characterization of their claims, which do not require a response; to the extent a
8 response is required, Twitter denies the allegations therein.

9 7. In response to paragraph 7 and the accompanying footnotes, Twitter admits that
10 Congress passed the Communications Decency Act in 1996. The remaining allegations in this
11 paragraph consist of Plaintiffs' legal conclusions to which no response is required. To the extent a
12 response is required, Twitter denies the allegations to the extent they mischaracterize, or are
13 incomplete or inconsistent with the cited sources.

14 8. In response to paragraph 8 and the accompanying footnote, Twitter admits that
15 Congress passed a bill known as Fight Online Sex Trafficking Act ("FOSTA") and Stop Enabling
16 Sex Traffickers Act ("SESTA") in 2018 and that the quoted material in paragraph 8 appears at the
17 source cited in footnote 3. The remaining allegations in this paragraph consist of Plaintiffs' legal
18 conclusions and characterization of their claims, which do not require a response; to the extent a
19 response is required, Twitter denies the allegations therein.

20 9. In response to paragraph 9 and the accompanying footnotes, Twitter admits that the
21 quoted material appears in the source cited in footnotes 4 and 5 but has been taken out of its
22 complete context. Twitter denies the remainder of the allegations in this paragraph.

23 **JURISDICTION AND VENUE**

24 10. In response to paragraph 10, Twitter admits that it is a business with its main
25 headquarters and operations in California. Twitter lacks sufficient knowledge and information to
26 form a belief as to the truth of the allegations concerning Plaintiffs, and on that ground can neither
27 confirm nor deny them. The remaining allegations in this paragraph state a legal conclusion to
28 which no response is required. To the extent a response is required, Twitter denies the allegations

1 therein.

2 11. In response to paragraph 11, the allegations in this paragraph state a legal conclusion
3 to which no response is required. To the extent a response is required, Twitter admits that Plaintiffs
4 assert federal claims against Twitter.

5 12. In response to paragraph 12, the allegations in this paragraph state a legal
6 conclusion, to which no response is required. To the extent a response is required, the Court
7 dismissed Plaintiffs' state law claims with prejudice, so no answer is required. (Dkt. 69.)

8 13. In response to paragraph 13, Twitter admits that it is headquartered in San Francisco,
9 California. The remaining allegations in this paragraph state a legal conclusion, to which no
10 response is required. To the extent a response is required, Twitter does not contest venue in this
11 Court.

12 **PARTIES**

13 **A. Plaintiffs**

14 14. In response to paragraph 14, Twitter lacks sufficient knowledge and information to
15 form a belief as to the truth of the allegations concerning the relationship between Jane Doe and
16 John Doe #1, and on that ground can neither confirm nor deny them. The remaining allegations in
17 this paragraph consist of Plaintiffs' legal conclusions and characterization regarding certain
18 documents filed in this action to which no response is required; to the extent a response is required,
19 Twitter denies the allegations to the extent they mischaracterize, or are incomplete or inconsistent
20 with the docket or documents filed in this action.

21 15. In response to paragraph 15, Twitter lacks sufficient knowledge and information to
22 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
23 them.

24 16. In response to paragraph 16, Twitter lacks sufficient knowledge and information to
25 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
26 them.

27 17. In response to paragraph 17, Twitter lacks sufficient knowledge and information to
28 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny

1 them.

2 18. In response to paragraph 18, Twitter admits that Plaintiffs sought to proceed in this
3 action under pseudonyms. The remaining allegations in this paragraph consist of Plaintiffs'
4 characterization of their claims which do not require a response; to the extent a response is required,
5 Twitter can neither confirm nor deny them.

6 19. In response to paragraph 19, Twitter lacks sufficient knowledge and information to
7 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
8 them.

9 20. In response to paragraph 20, the allegations in this paragraph consist of Plaintiffs'
10 legal conclusions and characterizations regarding certain documents filed in this action to which no
11 response is required. To the extent a response is required, Twitter denies the allegations to the
12 extent they mischaracterize, or are incomplete or inconsistent with the docket or documents filed
13 in this action.

14 **B. Defendant**

15 21. In response to paragraph 21, Twitter admits it is a Delaware corporation with its
16 principal office or place of business at 1355 Market Street, Suite 900, San Francisco, CA 94103.
17 Twitter denies the remaining allegations in this paragraph.

18 22. In response to paragraph 22, Twitter admits that it owns and operates the website
19 www.twitter.com.

20 **FACTS**

21 **THE TWITTER PLATFORM, BUSINESS MODEL, AND CONTENT MODERATION**
22 **POLICIES AND PRACTICES**

23 23. In response to paragraph 23 and the accompanying footnote, Twitter admits that, as
24 of July 27, 2021, it has 206 million average monetizable daily active users. Paragraph 23 cites
25 third-party statements for the remaining allegations and the cited source speaks for itself, so no
26 response is required. To the extent a response is required, Twitter lacks knowledge or information
27 sufficient to form a belief as to the basis for the figures reported by the cited third-party and on that
28 basis denies them.

1 24. In response to paragraph 24 and the accompanying footnotes, Twitter admits that it
 2 reported positive net income and that it employs approximately 4,900 full-time employees as of
 3 December 31, 2019, as noted in the Company's Form 10-K filed with the SEC on February 19,
 4 2020. Paragraph 24 cites third-party statements for the remaining allegations and the cited source
 5 speaks for itself, so no response is required. To the extent a response is required, Twitter lacks
 6 knowledge or information sufficient to form a belief as to the basis for the figures reported by the
 7 cited third-party and on that basis denies them.

8 25. In response to paragraph 25 and the accompanying footnote, Twitter admits that the
 9 allegations in this paragraph purport to characterize Twitter's revenue as reported in its Form 10-
 10 Q filed with the SEC on October 30, 2020. The cited source speaks for itself, so no response is
 11 required. To the extent a response is required, Twitter denies the allegations to the extent they
 12 mischaracterize, or are incomplete or inconsistent with the cited source.

13 26. In response to paragraph 26, Twitter admits that its platform allows users to
 14 communicate online in brief posts that are called "Tweets," which are limited to 280 characters and
 15 can include photos, videos, GIFs, and voice recordings. Twitter denies the remaining allegations
 16 in this paragraph.

17 27. In response to paragraph 27, Twitter admits that when a Twitter user reposts another
 18 user's Tweet it is known as "Retweeting." The remaining allegations in this paragraph consist of
 19 Plaintiffs' characterization of their claims to which no response is required; to the extent a response
 20 is required, Twitter denies the allegations therein.

21 28. In response to paragraph 28, Twitter admits the allegations in this paragraph.

22 29. In response to paragraph 29 and the accompanying footnote, Twitter admits that the
 23 quoted material appears in the source cited in footnote 10 but has been taken out of its complete
 24 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
 25 claims to which no response is required; to the extent a response is required, Twitter denies the
 26 allegations therein.

27 30. In response to paragraph 30, Twitter admits that it generates revenue through
 28 advertising services and data licensing. Twitter denies the remaining allegations in this paragraph.

1 31. In response to paragraph 31 and the accompanying footnote, Twitter admits that the
2 quoted material appears in the source cited in footnote 11 but has been taken out of its complete
3 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
4 claims to which no response is required; to the extent a response is required, Twitter denies the
5 allegations therein.

6 32. In response to paragraph 32 and the accompanying footnote, Twitter admits that the
7 quoted material appears in the source cited in footnote 12 but has been taken out of its complete
8 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
9 claims to which no response is required; to the extent a response is required, Twitter denies the
10 allegations therein.

11 33. In response to paragraph 33 and the accompanying footnote, Twitter admits that the
12 quoted material appears in the source cited in footnote 13 but has been taken out of its complete
13 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
14 claims to which no response is required; to the extent a response is required, Twitter denies the
15 allegations therein.

16 34. In response to paragraph 34, Twitter admits that it collects certain information from
17 users consistent with its publicly available and operative Privacy Policy. Twitter denies the
18 allegations in this paragraph to the extent they are incomplete, mischaracterize or are inconsistent
19 with Twitter's Privacy Policy.

20 35. In response to paragraph 35 and the accompanying footnote, Twitter admits that the
21 quoted material appears in the source cited in footnote 14 but has been taken out of its complete
22 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
23 claims to which no response is required; to the extent a response is required, Twitter denies the
24 allegations therein.

25 36. In response to paragraph 36, Twitter admits the allegations in this paragraph.

26 37. In response to paragraph 37, Twitter admits the allegations in this paragraph.

27 38. In response to paragraph 38, the allegations in this paragraph consist of Plaintiffs'
28 characterization of their claims, which do not require a response; to the extent a response is

1 required, Twitter denies the allegations therein.

2 39. In response to paragraph 39, Twitter admits it collects and uses data relating to the
3 activity of Twitter users on its platform in a manner outlined in Twitter's operative Terms of
4 Service, Privacy Policy, and any other applicable policies. Twitter denies the remaining allegations
5 in this paragraph.

6 40. In response to paragraph 40 and the accompanying footnote, Twitter admits that it
7 uses a metric known as "monetizable daily active usage" as that term is defined in the Company's
8 most recent Form 10-Q filed with the SEC on July 27, 2021. Twitter denies the remaining
9 allegations in this paragraph.

10 41. In response to paragraph 41 and the accompanying footnote, Twitter admits that the
11 quoted material appears in the source cited in footnote 16 but has been taken out of its complete
12 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
13 claims to which no response is required; to the extent a response is required, Twitter denies the
14 allegations therein.

15 42. In response to paragraph 42, Twitter admits that it takes enforcement actions against
16 content on the Twitter platform as outlined in the Twitter User Agreement. Twitter denies the
17 remaining allegations in this paragraph.

18 43. In response to paragraph 43 and the accompanying footnote, Twitter admits that it
19 takes enforcement actions against content on the Twitter platform as outlined in the Twitter User
20 Agreement. Paragraph 43 cites an online article for the remaining allegations and the cited source
21 speaks for itself, so no response is required. To the extent a response is required, Twitter lacks
22 knowledge or information sufficient to form a belief as to the basis for the information reported by
23 the cited third-party and on that basis denies them.

24 44. In response to paragraph 44, Twitter admits that, among other actions, it may ban or
25 limit the visibility of content on Twitter's platform in accordance with the Twitter User Agreement.
26 The remaining allegations in this paragraph consist of Plaintiffs' characterization of their claims to
27 which no response is required; to the extent a response is required, Twitter denies the allegations
28 therein.

1 45. In response to paragraph 45 and the accompanying footnote, Twitter admits that the
 2 quoted material appears in the source cited in footnote 18 but has been taken out of its complete
 3 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
 4 claims to which no response is required; to the extent a response is required, Twitter denies the
 5 allegations therein.

6 46. In response to paragraph 46 and the accompanying footnote, Twitter admits that the
 7 quoted material appears in the source cited in footnotes 18 and 19 but has been taken out of its
 8 complete context. The remaining allegations in this paragraph consist of Plaintiffs' characterization
 9 of their claims to which no response is required; to the extent a response is required, Twitter denies
 10 the allegations therein.

11 47. In response to paragraph 47 and the accompanying footnote, Twitter admits that the
 12 quoted material appears in the source cited in footnote 20 but has been taken out of its complete
 13 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
 14 claims to which no response is required; to the extent a response is required, Twitter denies the
 15 allegations therein.

16 48. In response to paragraph 48, Twitter admits the allegations in this paragraph.

17 49. In response to paragraph 49 and the accompanying footnote, the allegations in this
 18 paragraph purport to characterize an online article written by a third-party. Twitter admits that the
 19 article can be found at the URL in footnote 21. To the extent a further response is required, Twitter
 20 lacks knowledge or information sufficient to form a belief as to the basis for the information and
 21 on that basis denies them.

22 50. In response to paragraph 50, Twitter denies the allegations in this paragraph.

23 51. In response to paragraph 51, Twitter admits that the quoted material was Tweeted
 24 by the account @jack on January 13, 2021 but has been taken out of its complete context. The
 25 remaining allegations in this paragraph consist of Plaintiffs' characterization of their claims to
 26 which no response is required; to the extent a response is required, Twitter denies the allegations
 27 therein.

28

TWITTER AND SEXUAL EXPLOITATION MATERIAL

52. In response to paragraph 52, Twitter admits it generates revenue from the sale of advertising services and data licensing, among other services. Twitter denies the remaining allegations.

53. In response to paragraph 53, the allegations in this paragraph consist of Plaintiffs' characterization of their claims to which no response is required; to the extent a response is required, Twitter denies the allegations therein.

54. In response to paragraph 54, Twitter denies the allegations.

55. In response to paragraph 55 and the accompanying footnote, Twitter admits that the quoted material appears in the source cited in footnote 22 but has been taken out of its complete context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their claims to which no response is required; to the extent a response is required, Twitter denies the allegations therein.

56. In response to paragraph 56 and the accompanying footnote, Twitter admits that it has a zero-tolerance child sexual exploitation policy and that the quoted material appears in the source cited in footnote 23 but has been taken out of its complete context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their claims to which no response is required; to the extent a response is required, Twitter denies the allegations therein.

57. In response to paragraph 57 and the accompanying footnote, Twitter admits that the quoted material appears in the source cited in footnote 24 but has been taken out of its complete context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their claims to which no response is required; to the extent a response is required, Twitter denies the allegations therein.

58. In response to paragraph 58 and the accompanying footnote, Twitter admits that the quoted material appears in the source cited in footnote 25 but has been taken out of its complete context. Twitter denies the remaining allegations in this paragraph.

59. In response to paragraph 59, the allegations in this paragraph purport to characterize an uncited report written by a third-party. The report speaks for itself, so no response is required.

1 To the extent a response is required, Twitter lacks knowledge or information sufficient to form a
 2 belief as to the basis for the information reported by the third-party and on that basis denies them.

3 60. In response to paragraph 60 and the accompanying footnote, Twitter admits that it
 4 is a signatory to the Five Country Ministerial's Voluntary Principles to Counter Online Child
 5 Sexual Exploitation and Abuse. Twitter admits that the quoted material appears in the source cited
 6 in footnote 60 but has been taken out of its complete context. The remaining allegations in this
 7 paragraph consist of Plaintiffs' characterization of their claims to which no response is required; to
 8 the extent a response is required, Twitter denies the allegations therein.

9 61. In response to paragraph 61, Twitter denies the allegations in this paragraph.

10 62. In response to paragraph 62, the allegations consist of Plaintiffs' characterization of
 11 their claims to which no response is required; to the extent a response is required Twitter denies the
 12 allegations therein.

13 63. In response to paragraph 63, the allegations in this paragraph consist of Plaintiffs'
 14 characterization of their claims to which no response is required; to the extent a response is required,
 15 Twitter denies the allegations therein.

16 64. In response to paragraph 64 and the accompanying footnote, Twitter admits the
 17 allegations in this paragraph.

18 65. In response to paragraph 65 and the five accompanying footnotes, Twitter admits
 19 the allegations in this paragraph.

20 66. In response to paragraph 66 and the accompanying footnote, the allegations in this
 21 paragraph consist of Plaintiffs' characterization of their allegations, which do not require a
 22 response; to the extent a response is required, Twitter denies the allegations therein.

23 67. In response to paragraph 67, Twitter admits it has procedures in place to report child
 24 sexual exploitation content that it has identified on its platform to NCMEC and/or law enforcement.
 25 The remaining allegations in this paragraph consist of Plaintiffs' characterizations of their
 26 allegations to which no response is required; to the extent a response is required, Twitter denies the
 27 allegations therein.

28 68. In response to paragraph 68, the allegations in this paragraph purport to characterize

1 an encounter between Twitter and an unknown third-party without identifying the specific source
 2 or date associated with the encounter. As such, Twitter lacks sufficient information to confirm the
 3 allegations and, on that basis, denies them.

4 69. In response to paragraph 69, the allegations in this paragraph purport to characterize
 5 an encounter between Twitter and an unknown third-party without identifying the specific source
 6 or date associated with the encounter. As such, Twitter lacks sufficient information to confirm the
 7 allegations and, on that basis, denies them.

8 *Child Pornography or Child Sexual Abuse Material*

9 70. In response to paragraph 70, Twitter denies the allegations in this paragraph.

10 71. In response to paragraph 71, the allegations in this paragraph consist of Plaintiffs'
 11 characterization of their claims, which do not require a response; to the extent a response is
 12 required, Twitter denies the allegations therein.

13 72. In response to paragraph 72 and the accompanying footnote, Twitter admits that the
 14 quoted material appears in the source cited in footnote 30 but has been taken out of its complete
 15 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
 16 claims to which no response is required; to the extent a response is required, Twitter denies the
 17 allegations therein.

18 73. In response to paragraph 73 and the accompanying footnote, Twitter admits that the
 19 quoted material appears in the source cited in footnote 31 but has been taken out of its complete
 20 context. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their
 21 claims to which no response is required; to the extent a response is required, Twitter denies the
 22 allegations therein.

23 74. In response to paragraph 74, Twitter admits that it utilizes type-ahead or
 24 autocomplete technology in search, including with respect to hashtags. The remaining allegations
 25 in this paragraph consist of Plaintiffs' characterization of their claims to which no response is
 26 required; to the extent a response is required, Twitter denies the allegations therein.

27 75. In response to paragraph 75 and the accompanying footnote, the allegations in this
 28 paragraph purport to characterize an online article. Twitter admits that the article can be found at

1 the URL in footnote 32. To the extent a further response is required, Twitter lacks knowledge or
 2 information sufficient to form a belief as to the basis for the information in the article and on that
 3 basis denies them. The remaining allegations consist of Plaintiffs' characterizations of their claims
 4 to which no response is required; to the extent a response is required, Twitter denies the allegations
 5 therein.

6 76. In response to paragraph 76, Twitter admits that promoted Tweets and/or
 7 advertisements are shown intermixed between Tweets. The remaining allegations in this paragraph
 8 consist of Plaintiffs' characterization of their claims to which no response is required; to the extent
 9 a response is required, Twitter lacks sufficient knowledge and information to form a belief as to the
 10 truth of the remaining allegations in this paragraph, and on that basis denies them.

11 77. In response to paragraph 77, the allegations in this paragraph consist of Plaintiffs'
 12 characterization of their claims to which no response is required; to the extent a response is required,
 13 Twitter lacks sufficient knowledge and information to form a belief as to the truth of the allegations
 14 in this paragraph, and on that basis denies them.

15 78. In response to paragraph 78, Twitter admits that it typically does not block hashtags,
 16 but it may prevent hashtags that violate the Twitter User Agreement from trending. The remaining
 17 allegations consist of Plaintiffs' characterizations of their claims to which no response is required;
 18 to the extent a response is required, Twitter denies the allegations therein.

19 79. In response to paragraph 79, the allegations in this paragraph consist of Plaintiffs'
 20 characterizations of their claims to which no response is required; to the extent a response is
 21 required, Twitter denies the allegations therein.

22 *Twitter's Search-Suggestion Feature*

23 80. In response to paragraph 80, Twitter admits that its platform utilizes type-ahead or
 24 autocomplete technology in its search tools that users may use to find specific content. Twitter
 25 denies the remaining allegations in this paragraph.

26 81. In response to paragraph 81, the allegations in this paragraph consist of Plaintiffs'
 27 characterization of their claims to which no response is required; to the extent response is required,
 28 Twitter denies the allegations therein.

1 82. In response to paragraph 82, Twitter denies the allegations and characterizations in
2 this paragraph.

3 83. In response to paragraph 83, Twitter admits that it is aware of the #megalinks
4 hashtag. Twitter denies the remaining allegations in this paragraph.

5 84. In response to paragraph 84, Twitter admits that it has a “zero-tolerance” policy
6 against Child Sexual Exploitation content. Twitter denies the remaining allegations in this
7 paragraph.

8 **THE TRAFFICKING OF JOHN DOE #1 AND JOHN DOE #2**

9 85. In response to paragraph 85, Twitter lacks sufficient knowledge and information to
10 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
11 them.

12 86. In response to paragraph 86, Twitter lacks sufficient knowledge and information to
13 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
14 them.

15 87. In response to paragraph 87 and the accompanying footnote, Twitter admits that the
16 blog can be found at the URL in footnote 33. Twitter lacks knowledge or information sufficient to
17 form a belief as to the truth for the remaining allegations and on that basis can neither confirm nor
18 deny them.

19 88. In response to paragraph 88, Twitter lacks sufficient knowledge and information to
20 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
21 them.

22 89. In response to paragraph 89, Twitter lacks sufficient knowledge and information to
23 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
24 them.

25 90. In response to paragraph 90, Twitter lacks sufficient knowledge and information to
26 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
27 them.

28 91. In response to paragraph 91, Twitter lacks sufficient knowledge and information to

1 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
2 them.

3 92. In response to paragraph 92, the allegations in this paragraph consist of Plaintiffs'
4 legal conclusions and characterization of their claims, which do not require a response; to the extent
5 a response is required, Twitter denies the allegations therein. Twitter lacks sufficient knowledge
6 and information to form a belief as to the truth of the remaining allegations in this paragraph, and
7 on that ground can neither confirm nor deny them.

8 93. In response to paragraph 93, Twitter lacks sufficient knowledge and information to
9 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
10 them.

11 94. In response to paragraph 94, Twitter lacks sufficient knowledge and information to
12 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
13 them.

14 95. In response to paragraph 95, Twitter lacks sufficient knowledge and information to
15 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
16 them.

17 96. In response to paragraph 96, Twitter lacks sufficient knowledge and information to
18 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
19 them.

20 97. In response to paragraph 97, Twitter lacks sufficient knowledge and information to
21 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
22 them.

23 98. In response to paragraph 98, Twitter lacks sufficient knowledge and information to
24 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
25 them.

26 99. In response to paragraph 99, Twitter lacks sufficient knowledge and information to
27 form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
28 them.

1 100. In response to paragraph 100, Twitter lacks sufficient knowledge and information
2 to form a belief as to the truth of the remaining allegations in this paragraph, and on that ground
3 can neither confirm nor deny them.

4 **CSAM DEPICTING JOHN DOE #1 AND JOHN DOE #2 IS DISTRIBUTED ON**
5 **TWITTER**

6 101. In response to paragraph 101, Twitter admits that the report reproduced in this
7 paragraph was submitted to Twitter on December 25, 2019. Twitter denies the remaining
8 allegations in this paragraph.

9 102. In response to paragraph 102, Twitter admits that the report reproduced in paragraph
10 101 was assigned claim number 0136403334. Twitter denies that it did not take action against the
11 @StraightBross account. Twitter suspended the @StraightBross account on January 28, 2020.

12 103. In response to paragraph 103, Twitter lacks sufficient knowledge and information
13 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
14 them.

15 104. In response to paragraph 104, Twitter lacks sufficient knowledge and information
16 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
17 them.

18 105. In response to paragraph 105, Twitter lacks sufficient knowledge and information
19 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
20 them.

21 106. In response to paragraph 106, Twitter lacks sufficient knowledge and information
22 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
23 them.

24 107. In response to paragraph 107, Twitter lacks sufficient knowledge and information
25 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
26 them.

27 108. In response to paragraph 108, Twitter lacks sufficient knowledge and information
28 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny

1 them.

2 109. In response to paragraph 109, Twitter lacks sufficient knowledge and information
3 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
4 them.

5 110. In response to paragraph 110, Twitter lacks sufficient knowledge and information
6 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
7 them.

8 111. In response to paragraph 111, Twitter lacks sufficient knowledge and information
9 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
10 them.

11 112. In response to paragraph 112, Twitter admits that on or around January 20, 2020, it
12 received a communication regarding the Twitter user @fitmalesblog and that this report was
13 assigned case number 0139512883. Twitter lacks sufficient knowledge and information to confirm
14 or deny whether the communication was sent by Plaintiff John Doe #1. The remaining allegations
15 in this paragraph are Plaintiffs' characterizations of the allegations, which do not require a response;
16 to the extent a response is required, Twitter denies the allegations therein.

17 113. In response to paragraph 113, Twitter admits that in response to case number
18 0139512883, Twitter responded on January 21, 2020, with the quoted text in this paragraph.

19 114. In response to paragraph 114, Twitter admits that on January 22, 2020, it received
20 an email containing the quoted text. Twitter lacks sufficient knowledge and information to confirm
21 or deny the remaining allegations in this paragraph.

22 115. In response to paragraph 115, Twitter admits that on January 22, 2020, it received a
23 communication regarding the Twitter accounts @StraightBross and @fitmalesblog. Twitter lacks
24 sufficient knowledge and information to confirm or deny whether the communication was sent by
25 the mother of Plaintiff John Doe #1. The remaining allegations in this paragraph are Plaintiffs'
26 characterization of their claims, which do not require a response; to the extent a response is
27 required, Twitter denies the allegations therein.

28 116. In response to paragraph 116, Twitter admits the allegations in this paragraph.

117. In response to paragraph 117, Twitter admits the allegations in this paragraph.

118. In response to paragraph 118, Twitter admits that on January 22, 2021, it received a complaint that referenced a law enforcement report. Twitter lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations, and on that ground can neither confirm nor deny them.

119. In response to paragraph 119, Twitter admits that it received a communication containing the quoted email on January 26, 2020. Twitter lacks sufficient knowledge and information to confirm or deny whether the communication was sent by the mother of Plaintiff John Doe #1. The remaining allegations in this paragraph consist of Plaintiffs' characterization of the allegations, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

120. In response to paragraph 120, Twitter admits that in response to case number 0139512883, Twitter responded on January 28, 2020, with the quoted text in this paragraph.

121. In response to paragraph 121, the allegations in this paragraph refer to alleged statements by unknown third parties, for which no response is required. To the extent a response is required, Twitter lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny them.

122. In response to paragraph 122, the allegations in this paragraph consist of Plaintiffs' characterization of their allegations, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

123. In response to paragraph 123, Twitter admits that on January 28, 2020, it received a communication containing the quoted language. Twitter lacks sufficient knowledge and information to confirm or deny whether the communication was sent by Plaintiff John Doe #1. The remaining allegations in this paragraph consist of Plaintiffs' characterization of their allegations, which do not require a response; to the extent a response is required, Twitter denies the allegations therein.

124. In response to paragraph 124, Twitter lacks sufficient knowledge and information to form a belief as to the truth of the allegations regarding the number of views and Retweets, in

1 part, because it is unclear to which videos this paragraph refers, and on that ground can neither
 2 confirm nor deny them. The remaining allegations in this paragraph consist of Plaintiffs'
 3 characterization of their allegations to which no response is required; to the extent a response is
 4 required, Twitter denies the allegations therein.

5 125. In response to paragraph 125, Twitter admits that the @StraightBross account was
 6 suspended on January 28, 2020, at which point content posted by the account would no longer be
 7 visible on the Twitter platform. Twitter further admits that the @fitmalesblog account was
 8 suspended on January 30, 2020, at which point the content posted by the account would no longer
 9 be visible on the Twitter platform. Twitter lacks sufficient knowledge and information to form a
 10 belief regarding what specific content is being referenced in this allegation, and on that ground can
 11 neither confirm nor deny the allegation. The remaining allegations in this paragraph consist of
 12 Plaintiffs' characterization of their allegations, which do not require a response; to the extent a
 13 response is required, Twitter denies the allegations therein.

14 126. In response to paragraph 126 and the accompanying footnote, Twitter admits that
 15 the quoted material appears in the source cited in footnote 35 but has been taken out of its complete
 16 context. Twitter lacks sufficient knowledge and information to form a belief as to the truth of the
 17 allegations in this paragraph, and on that ground can neither confirm nor deny them.

18 127. In response to paragraph 127, Twitter reported the @fitmalesblog account to
 19 NCMEC on January 30, 2020. Twitter lacks sufficient knowledge and information to form a belief
 20 regarding what specific content is being referenced in this allegation, and on that ground can neither
 21 confirm nor deny the allegation

22 128. In response to paragraph 128, Twitter admits that it received a communication from
 23 the U.S. Department of Homeland Security, Investigations regarding content associated with the
 24 @fitmalesblog account on January 30, 2020 and suspended the account the same day on January
 25 30, 2020. Twitter lacks sufficient knowledge and information to form a belief as to the truth of the
 26 remaining allegations in this paragraph, and on that ground denies them.

27 129. In response to paragraph 129, Twitter suspended the @StraightBross user account
 28 on January 28, 2020 and the @fitmalesblog user account on January 30, 2020 and the

1 @fitmalesblog account was reported to NCMEC on January 30, 2020. Twitter denies the remaining
2 allegations in this paragraph.

3 130. In response to paragraph 130, Twitter admits that the @StraightBross account had
4 previously been reported through the CSAM reporting portal. Twitter denies that it had previously
5 identified CSAM on the @StraightBross account in connection with the previous report.

6 131. In response to paragraph 131 and the accompanying footnote, Twitter admits that it
7 did not block the IP addresses associated with the user account @StraightBross. As discussed in
8 Twitter's Help Center, Twitter does not have a practice of blocking IP addresses associated with
9 user accounts that have violated the Twitter User Agreement because IP blocking is generally
10 ineffective at stopping unwanted behavior, and may falsely prevent legitimate accounts from
11 accessing our service. Twitter admits that an account @BrossStraight was created on Twitter's
12 platform on January 18, 2020. Twitter suspended the account @BrossStraight on January 21, 2021.
13 The remaining allegations consist of Plaintiffs' characterization of their claims to which no
14 response is required; to the extent a response is required, Twitter denies the allegations therein.

15 132. In response to paragraph 132, Twitter lacks sufficient knowledge and information
16 to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny
17 them.

18 **CLAIMS ALLEGED**

19 **COUNT I**

20 **VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION**

21 **ACT, 18 U.S.C. §§ 1591(a)(1) AND 1595**

22 133. In response to paragraph 133, Twitter denies this paragraph as moot with respect to
23 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
24 prejudice of this claim. (*See* ECF No. 69.)

25 134. In response to paragraph 134, Twitter denies this paragraph as moot with respect to
26 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
27 prejudice of this claim. (*See* ECF No. 69.)

28 135. In response to paragraph 135, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
2 prejudice of this claim. (*See* ECF No. 69.)

3 136. In response to paragraph 136, Twitter denies this paragraph as moot with respect to
4 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
5 prejudice of this claim. (*See* ECF No. 69.)

6 137. In response to paragraph 137 Twitter denies this paragraph as moot with respect to
7 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
8 prejudice of this claim. (*See* ECF No. 69.)

9 138. In response to paragraph 138, Twitter denies this paragraph as moot with respect to
10 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
11 prejudice of this claim. (*See* ECF No. 69.)

12 139. In response to paragraph 139, Twitter denies this paragraph as moot with respect to
13 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
14 prejudice of this claim. (*See* ECF No. 69.)

15 140. In response to paragraph 140, Twitter denies this paragraph as moot with respect to
16 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
17 prejudice of this claim. (*See* ECF No. 69.)

18 141. In response to paragraph 141, Twitter denies this paragraph as moot with respect to
19 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
20 prejudice of this claim. (*See* ECF No. 69.)

21 142. In response to paragraph 142, Twitter denies this paragraph as moot with respect to
22 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
23 prejudice of this claim. (*See* ECF No. 69.)

24 143. In response to paragraph 143, Twitter denies this paragraph as moot with respect to
25 Plaintiffs' claim under 18 U.S.C. §§ 1591(a)(1) and 1595 in light of the Court's dismissal with
26 prejudice of this claim. (*See* ECF No. 69.)

27

28

COUNT II**BENEFITING FROM A SEX TRAFFICKING VENTURE IN VIOLATION OF THE
TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT, 18 U.S.C.****§§ 1591(a)(2) AND 1595**

144. In response to paragraph 144, Twitter admits that Plaintiffs purport to incorporate by reference the allegations in all prior and subsequent paragraphs in the FAC. Twitter re-alleges and incorporates by reference its answers to all prior and subsequent paragraphs.

145. In response to paragraph 145, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them.

146. In response to paragraph 146, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them.

147. In response to paragraph 147, Twitter lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny them.

148. In response to paragraph 148, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them.

149. In response to paragraph 149, Twitter lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny them.

150. In response to paragraph 150, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them. Twitter also lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that ground can neither confirm nor deny them.

151. In response to paragraph 151, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them. Twitter also lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that ground denies them.

152. In response to paragraph 152, Twitter admits that in January 2020, it received

several communications concerning the @StraightBross and @fitmalesblog accounts, some of which also linked to specific content. Twitter lacks sufficient knowledge and information to form a belief as to whether the reported content is the “CSAM depicting John Doe #1 and John Doe #2” and on that basis Twitter can neither confirm nor deny the allegation. The remaining allegations consist of Plaintiffs’ characterization of their claims to which no response is required; to the extent a response is required, Twitter denies the allegations therein.

153. In response to paragraph 153, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them.

154. In response to paragraph 154, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter denies them.

155. In response to paragraph 155, no answer is required to the allegations that state legal conclusions; to the extent an answer to those allegations is required, Twitter denies them. Twitter lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations, and on that ground can neither confirm nor deny them.

COUNT III

VIOLATION OF DUTY TO REPORT CHILD SEXUAL ABUSE MATERIAL, 18 U.S.C.

§§ 2258A AND 2258B

156. In response to paragraph 156, Twitter denies this paragraph as moot with respect to Plaintiffs’ claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court’s dismissal with prejudice of this claim. (*See* ECF No. 69.)

157. In response to paragraph 157, this paragraph is moot with respect to Plaintiffs’ claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court’s dismissal with prejudice of this claim; to the extent a response is required, Twitter admits the allegations in this paragraph. (*See* ECF No. 69.).

158. In response to paragraph 158, Twitter denies this paragraph as moot with respect to Plaintiffs’ claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court’s dismissal with prejudice of this claim. (*See* ECF No. 69.)

159. In response to paragraph 159, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court's dismissal with
2 prejudice of this claim. (*See* ECF No. 69.)

3 160. In response to paragraph 160, Twitter denies this paragraph as moot with respect to
4 Plaintiffs' claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court's dismissal with
5 prejudice of this claim. (*See* ECF No. 69.)

6 161. In response to paragraph 161, Twitter denies this paragraph as moot with respect to
7 Plaintiffs' claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court's dismissal with
8 prejudice of this claim. (*See* ECF No. 69.)

9 162. In response to paragraph 162, Twitter denies this paragraph as moot with respect to
10 Plaintiffs' claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court's dismissal with
11 prejudice of this claim. (*See* ECF No. 69.)

12 163. In response to paragraph 163, Twitter denies this paragraph as moot with respect to
13 Plaintiffs' claim under 18 U.S.C. §§ 2258A and 2258B in light of the Court's dismissal with
14 prejudice of this claim. (*See* ECF No. 69.)

15 **COUNT IV**

16 **CIVIL REMEDIES FOR PERSONAL INJURIES RELATED TO SEX TRAFFICKING** 17 **AND RECEIPT AND DISTRIBUTION OF CHILD PORNOGRAPHY (18 U.S.C. §§ 1591,** 18 **2252A, AND 2255)**

19 164. In response to paragraph 164, Twitter denies this paragraph as moot with respect to
20 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
21 prejudice of this claim. (*See* ECF No. 69.)

22 165. In response to paragraph 165, Twitter denies this paragraph as moot with respect to
23 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
24 prejudice of this claim. (*See* ECF No. 69.)

25 166. In response to paragraph 166, Twitter denies this paragraph as moot with respect to
26 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
27 prejudice of this claim. (*See* ECF No. 69.)

28 167. In response to paragraph 167, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
2 prejudice of this claim. (*See* ECF No. 69.)

3 168. In response to paragraph 168, Twitter denies this paragraph as moot with respect to
4 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
5 prejudice of this claim. (*See* ECF No. 69.)

6 169. In response to paragraph 169, Twitter denies this paragraph as moot with respect to
7 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
8 prejudice of this claim. (*See* ECF No. 69.)

9 170. In response to paragraph 170, Twitter denies this paragraph as moot with respect to
10 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
11 prejudice of this claim. (*See* ECF No. 69.)

12 171. In response to paragraph 171, this paragraph is moot with respect to Plaintiffs' claim
13 under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with prejudice of this
14 claim; to the extent a response is required, Twitter admits the allegations in this paragraph. (*See*
15 ECF No. 69.)

16 172. In response to paragraph 172, Twitter denies this paragraph as moot with respect to
17 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
18 prejudice of this claim. (*See* ECF No. 69.)

19 173. In response to paragraph 173, Twitter denies this paragraph as moot with respect to
20 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
21 prejudice of this claim. (*See* ECF No. 69.)

22 174. In response to paragraph 174, Twitter denies this paragraph as moot with respect to
23 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
24 prejudice of this claim. (*See* ECF No. 69.)

25 175. In response to paragraph 175, Twitter denies this paragraph as moot with respect to
26 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
27 prejudice of this claim. (*See* ECF No. 69.)

28 176. In response to paragraph 176, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' claim under 18 U.S.C. §§ 1591, 2252A, and 2255 in light of the Court's dismissal with
 2 prejudice of this claim. (*See* ECF No. 69.)

3 COUNT V

4 **CALIFORNIA PRODUCTS LIABILITY**

5 177. In response to paragraph 177, Twitter denies this paragraph as moot with respect to
 6 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 7 claim. (*See* ECF No. 69.)

8 178. In response to paragraph 178, Twitter denies this paragraph as moot with respect to
 9 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 10 claim. (*See* ECF No. 69.)

11 179. In response to paragraph 179, Twitter denies this paragraph as moot with respect to
 12 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 13 claim. (*See* ECF No. 69.)

14 180. In response to paragraph 180, Twitter denies this paragraph as moot with respect to
 15 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 16 claim. (*See* ECF No. 69.)

17 181. In response to paragraph 181, Twitter denies this paragraph as moot with respect to
 18 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 19 claim. (*See* ECF No. 69.)

20 182. In response to paragraph 182 Twitter denies this paragraph as moot with respect to
 21 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 22 claim. (*See* ECF No. 69.)

23 183. In response to paragraph 183, Twitter denies this paragraph as moot with respect to
 24 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 25 claim. (*See* ECF No. 69.)

26 184. In response to paragraph 184, Twitter denies this paragraph as moot with respect to
 27 Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this
 28 claim. (*See* ECF No. 69.)

185. In response to paragraph 185, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

186. In response to paragraph 186, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

187. In response to paragraph 187, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

188. In response to paragraph 188, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

189. In response to paragraph 189, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

190. In response to paragraph 190, Twitter denies this paragraph as moot with respect to Plaintiffs' California Products Liability claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

COUNT VI

NEGLIGENCE

191. In response to paragraph 191, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

192. In response to paragraph 192, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

193. In response to paragraph 193, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF

No. 69.)

194. In response to paragraph 194 Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

195. In response to paragraph 195, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

196. In response to paragraph 196, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

197. In response to paragraph 197, Twitter denies this paragraph as moot with respect to Plaintiffs' Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

COUNT VII

GROSS NEGLIGENCE

198. In response to paragraph 198, Twitter denies this paragraph as moot with respect to Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

199. In response to paragraph 199, Twitter denies this paragraph as moot with respect to Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

200. In response to paragraph 200, Twitter denies this paragraph as moot with respect to Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

201. In response to paragraph 201, Twitter denies this paragraph as moot with respect to Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

202. In response to paragraph 202, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim.
 2 (*See* ECF No. 69.)

3 203. In response to paragraph 203, Twitter denies this paragraph as moot with respect to
 4 Plaintiffs' Gross Negligence claim in light of the Court's dismissal with prejudice of this claim.
 5 (*See* ECF No. 69.)

6 **COUNT VIII**

7 **NEGLIGENCE PER SE**

8 204. In response to paragraph 204, Twitter denies this paragraph as moot with respect to
 9 Plaintiffs' Negligence Per Se claim in light of the Court's dismissal with prejudice of this claim.
 10 (*See* ECF No. 69.)

11 205. In response to paragraph 205, Twitter denies this paragraph as moot with respect to
 12 Plaintiffs' Negligence Per Se claim in light of the Court's dismissal with prejudice of this claim.
 13 (*See* ECF No. 69.)

14 206. In response to paragraph 206, Twitter denies this paragraph as moot with respect to
 15 Plaintiffs' Negligence Per Se claim in light of the Court's dismissal with prejudice of this claim.
 16 (*See* ECF No. 69.)

17 **COUNT IX**

18 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

19 207. In response to paragraph 207, Twitter denies this paragraph as moot with respect to
 20 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
 21 prejudice of this claim. (*See* ECF No. 69.)

22 208. In response to paragraph 208, Twitter denies this paragraph as moot with respect to
 23 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
 24 prejudice of this claim. (*See* ECF No. 69.)

25 209. In response to paragraph 209, Twitter denies this paragraph as moot with respect to
 26 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
 27 prejudice of this claim. (*See* ECF No. 69.)

28 210. In response to paragraph 210, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
2 prejudice of this claim. (*See* ECF No. 69.)

3 211. In response to paragraph 211, Twitter denies this paragraph as moot with respect to
4 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
5 prejudice of this claim. (*See* ECF No. 69.)

6 212. In response to paragraph 212, Twitter denies this paragraph as moot with respect to
7 Plaintiffs' Negligence Infliction of Emotional Distress claim in light of the Court's dismissal with
8 prejudice of this claim. (*See* ECF No. 69.)

9 **COUNT X**

10 **DISTRIBUTION OF PRIVATE SEXUALLY EXPLICIT MATERIALS, CAL. CIV. CODE**

11 **§ 1708.85**

12 213. In response to paragraph 213, Twitter denies this paragraph as moot with respect to
13 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this
14 claim. (*See* ECF No. 69.)

15 214. In response to paragraph 214 Twitter denies this paragraph as moot with respect to
16 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this
17 claim. (*See* ECF No. 69.)

18 215. In response to paragraph 215, Twitter denies this paragraph as moot with respect to
19 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this
20 claim. (*See* ECF No. 69.)

21 216. In response to paragraph 216, Twitter denies this paragraph as moot with respect to
22 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this
23 claim. (*See* ECF No. 69.)

24 217. In response to paragraph 217, Twitter denies this paragraph as moot with respect to
25 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this
26 claim. (*See* ECF No. 69.)

27 218. In response to paragraph 218, Twitter denies this paragraph as moot with respect to
28 Plaintiffs' Cal. Civ. Code. § 1708.85 claim in light of the Court's dismissal with prejudice of this

claim. (*See* ECF No. 69.)

COUNT XI

INTRUSTION INTO PRIVATE AFFAIRS

219. In response to paragraph 219, Twitter denies this paragraph as moot with respect to Plaintiffs' Intrusion into Private Affairs claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

220. In response to paragraph 220, Twitter denies this paragraph as moot with respect to Plaintiffs' Intrusion into Private Affairs claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

221. In response to paragraph 221, Twitter denies this paragraph as moot with respect to Plaintiffs' Intrusion into Private Affairs claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

222. In response to paragraph 222, Twitter denies this paragraph as moot with respect to Plaintiffs' Intrusion into Private Affairs claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

223. In response to paragraph 223, Twitter denies this paragraph as moot with respect to Plaintiffs' Intrusion into Private Affairs claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

COUNT XII

INVASION OF PRIVACY UNDER THE CALIFORNIA CONSTITUTION, ARTICLE 1, SECTION 1

224. In response to paragraph 224, Twitter denies this paragraph as moot with respect to Plaintiffs' Invasion of Privacy claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

225. In response to paragraph 225, Twitter denies this paragraph as moot with respect to Plaintiffs' Invasion of Privacy claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

226. In response to paragraph 226, Twitter denies this paragraph as moot with respect to

1 Plaintiffs' Invasion of Privacy claim in light of the Court's dismissal with prejudice of this claim.
 2 (*See* ECF No. 69.)

3 227. In response to paragraph 227, Twitter denies this paragraph as moot with respect to
 4 Plaintiffs' Invasion of Privacy claim in light of the Court's dismissal with prejudice of this claim.
 5 (*See* ECF No. 69.)

6 228. In response to paragraph 228, Twitter denies this paragraph as moot with respect to
 7 Plaintiffs' Invasion of Privacy claim in light of the Court's dismissal with prejudice of this claim.
 8 (*See* ECF No. 69.)

9 **COUNT XIII**

10 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200**

11 229. In response to paragraph 229, Twitter denies this paragraph as moot with respect to
 12 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 13 prejudice of this claim. (*See* ECF No. 69.)

14 230. In response to paragraph 230, Twitter denies this paragraph as moot with respect to
 15 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 16 prejudice of this claim. (*See* ECF No. 69.)

17 231. In response to paragraph 231, Twitter denies this paragraph as moot with respect to
 18 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 19 prejudice of this claim. (*See* ECF No. 69.)

20 232. In response to paragraph 232, Twitter denies this paragraph as moot with respect to
 21 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 22 prejudice of this claim. (*See* ECF No. 69.)

23 233. In response to paragraph 233, Twitter denies this paragraph as moot with respect to
 24 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 25 prejudice of this claim. (*See* ECF No. 69.)

26 234. In response to paragraph 234, Twitter denies this paragraph as moot with respect to
 27 Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with
 28 prejudice of this claim. (*See* ECF No. 69.)

235. In response to paragraph 235, Twitter denies this paragraph as moot with respect to Plaintiffs' Business and Professions Code § 17200 claim in light of the Court's dismissal with prejudice of this claim. (*See* ECF No. 69.)

REQUEST FOR RELIEF

In response to Plaintiffs' prayer, Twitter denies that Plaintiffs are entitled to any type of remedy, injunction, relief, damages, restitution, disgorgement, attorneys' fees, or costs.

DEMAND FOR JURY TRIAL

In response to Plaintiffs' demand for a jury trial, no answer is required to the allegations that state legal conclusions. To the extent an answer to those allegations is required, Twitter admits that Plaintiffs have demanded a jury trial.

AFFIRMATIVE DEFENSES

Twitter asserts the following additional defenses to Plaintiffs' FAC, without assuming the burden of proof on such defenses that would otherwise fall on Plaintiffs. Twitter reserves the right to supplement or amend these defenses as discovery is conducted, and does not knowingly or intentionally waive any applicable affirmative or other defense.

First Affirmative Defense

Section 230 of the Communications Decency Act, 47 U.S.C. § 230, bars Plaintiffs' claims. Twitter is an interactive computer service provider within the meaning of 47 U.S.C. § 230, and Plaintiffs' 18 U.S.C. § 1595 claim against Twitter arises from content created by third parties. Because Plaintiffs do not adequately plead that their claim is exempt from Twitter's immunity under 47 U.S.C. § 230, Twitter is immune from Plaintiffs' claim.

Second Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because the incidents in question and all damages complained of and claimed by Plaintiffs, if any, were the result of actions, inactions, or fault of other persons or parties not under the control of Twitter and for which Twitter is not responsible. Plaintiffs allege that they created the video and photo content depicting them and that the content was shared on Twitter by unknown third parties.

Third Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because any damage, loss, or liability alleged by Plaintiffs must be reduced, diminished, and/or barred in proportion to the wrongful or negligent conduct of persons or entities other than Twitter, including third parties such as Plaintiffs' alleged trafficker(s) under the principles of proportionate responsibility, equitable allocation, recoupment, set-off, comparative causation, and/or comparative fault. Plaintiffs allege that they created the photo and video content depicting them and that the content was shared on Twitter by unknown third parties.

Fourth Affirmative Defense

Unidentified persons referred to in the FAC committed criminal acts that were causes of the alleged loss or injury that is the subject of this suit. Plaintiffs allege that unknown third parties exploited Plaintiffs and shared the photo and video content depicting Plaintiffs on Twitter.

Fifth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because the statute(s) sued upon are unconstitutionally vague and ambiguous. Twitter is immune from Plaintiffs' 18 U.S.C. § 1595 claim pursuant to 47 U.S.C. § 230 unless Plaintiffs plead that their claim qualifies for the exemption in 47 U.S.C. § 230(e)(5)(A), which provides that a § 1595 claim is exempt, "if the conduct underlying the claim constitutes a violation of [S]ection 1591." Ninth Circuit courts have split on the interpretation and application of these statutes.

Sixth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to name necessary and indispensable parties. Plaintiffs allege that unknown third parties exploited Plaintiffs and shared the photo and video content depicting Plaintiffs on Twitter.

Seventh Affirmative Defense

The imposition of punitive damages against Twitter in this case would be fundamentally unfair and would violate the United States Constitution. Twitter's conduct was reasonable under the circumstances and not reprehensible. Moreover, Plaintiffs allege that unknown third parties exploited Plaintiffs and shared the photo and video content depicting Plaintiffs on Twitter. Thus,

1 punitive damages against Twitter would not be proportionate or reasonably related to the harm
 2 plaintiffs suffered. Moreover, punitive damages are barred to the extent not permitted by statute.

3 **Eighth Affirmative Defense**

4 The relief sought by Plaintiffs, if granted, would violate Twitter's rights under the Excessive
 5 Fines clauses of the United States Constitution. Twitter's conduct was reasonable under the
 6 circumstances and not reprehensible. Moreover, Plaintiffs allege that unknown third parties
 7 exploited Plaintiffs and shared the photo and video content depicting Plaintiffs on Twitter. Thus,
 8 punitive damages against Twitter would not be proportionate or reasonably related to the harm
 9 Plaintiffs suffered.

10 **Ninth Affirmative Defense**

11 Twitter alleges that it acted in substantial compliance with, and good faith reliance upon,
 12 the reasonable interpretation of applicable law. Twitter has zero tolerance for child sexual
 13 exploitation content on its platform. Twitter vigorously combats such content through a
 14 combination of methods, including the use of proprietary technology to proactively identify and
 15 remove such material. During the six-month period from January to June 2020, Twitter suspended
 16 438,809 accounts for violating its policies prohibiting CSE material, and proactively identified
 17 approximately 399,316 of those accounts using its own technological means.

18 **RESERVATION OF RIGHTS**

19 Twitter presently has insufficient knowledge or information upon which to form a belief as
 20 to whether it may have additional unstated defenses. Twitter reserves the right to assert any other
 21 defense that may be established during discovery and by the evidence and proceedings in this case.

22 Dated: September 22, 2021

COOLEY LLP

24 By: /s/ Michael G. Rhodes
 25 Michael G. Rhodes

26 *Attorneys for Defendant*
 27 *Twitter, Inc.*